IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 36499 of 1998

Between:

1 Kandarpa Narayana Murthy S/o. Late K.V. Ramesam
R/o. Chodavaram, Chodavaram Mandal, Visakhapatnam District.
2 Kalagarla Appala Raju S/o. Latte Appala Narasimham,
R/o. Bazar Street, Chodavaram, Chodavaram Mandal, Visakhapatnam District.
3 Poosarla Seetharama Kumar S/o. Late Seetharamaiah
R/o. Bazar Street, Chodavaram, Chodavaram Mandal, Visakhapatnam District.
4 Vijjapu Rajeswara Rao S/o. Late Someswara Rao
R/o. Bazar Street, Chodavaram, Chodavaram Mandal, Visakhapatnam District.

..... PETITIONERS

AND

1 The District Collector, Visakhapatnam District,
Visakhapatnam.

2 The Executive Officer, Chodavaram Gram Panchayat,
Chodavaram,
Chodavaram Mandal, Visakhapatnam District.

3 The Sarpanch, Chodavaram Gram Panchayat,
Chodavaram,
Chodavaram Mandal, Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in converting the part of the above said two Public Parks Viz Poosarla Sita Ramayya Memorial Panchayat Park and Indira Park situated in Chodavaram Grampanchayat into Commercial Complexes as illegal, arbitrary, capricious and violative of fundamental rights of the citizens of Gramapanchayat, Chodavarm and opposed to the principles of natural justice and health hazard to the Citizens of Gramapanchayat Chodavaram and to pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case, else the petitioners herein will suffer grave and irreparable loss.

Counsel for the Petitioners : MR.K.SUBRAHMANYAM

Counsel for the Respondent No.1: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the respondent Nos. 2 & 3: MR. M. SUBBAIAH SASTRY.

The Court made the following :

ORAL ORDER:

(per Hon’ble The Chief Justice)

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1. Writ petition was filed on 28.12.1998, which is in the nature of public interest litigation, to declare the action of the respondents in converting a part of the two public parks, namely, Poosarla Sita Ramayya Memorial Panchayat Park and Indira Park, situated in Chodavaram Gram Panchayat into commercial complexes, as illegal, arbitrary and violative of rights of the citizens of Chodavaram Gram Panchayat.

2. Interim order was passed restraining respondents from changing the nature of the land during the pendency of the writ petition and Rule Nisi was issued. Counter affidavit has been filed on behalf of 2nd and 3rd respondents. No counter-affidavit is filed on behalf of 1st respondent. Learned Government Pleader now states that he has been orally instructed that no part of the land of the parks is required by the respondents for commercial complex since shopping complex has been raised at some other place.

3. As per the averments made in the petition, Cooperative House Building Society, Chodavaram, was allotted some land and two areas were earmarked for development of park. The two parks are located in the town and there are no other parks in the town. These were handed over to the Gram Panchayat for development purposes and were not meant for use for any other purpose whatsoever. Since the parks have been developed, there is no reason why the same should not be maintained as parks and there is no reason why any part thereof should be converted into a commercial complex. Such conversion would be illegal and bad in law.

4. As it is stated now that no part of the parks is required to be utilised for

commercial purposes, we allow the writ petition in terms of the prayer thereof. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 17.01.2005.

VRK.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, Chief Justice, on this Monday the seventeenth day of January, Two thousand and five.

To

1 The District Collector, Visakhapatnam District,
Visakhapatnam.
2 The Executive Officer, Chodavaram Gram Panchayat,
Chodavaram,
Chodavaram Mandal, Visakhapatnam District.
3 The Sarpanch, Chodavaram Gram Panchayat,
Chodavaram,
Chodavaram Mandal, Visakhapatnam District.

4. Two CCs to G.P., for Panchayat Raj & Rural Development, High Court Buildings, Hyderabad (OUT).

5. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

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W.P.NO. 36499 OF 1998.

(Order of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 17.01.2005.

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